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1                   L. ALDANA-BERNIER

2                   MR. CALLAN: Didn't she just say  
3                   she didn't speak to Dr. Lamstein?

4                   Objection.

5                   Q.     Did you ever tell Dr. Lamstein  
6                   that Mr. Schoolcraft did not need  
7                   psychiatric care?

8                   MR. CALLAN: Are you asking if  
9                   she used telepathy since she didn't  
10                  speak to the doctor?

11                  Q.     Did you say that to --

12                  A.     I haven't spoken to Dr.  
13                  Lamstein.

14                  Q.     So if Dr. Lamstein said that  
15                  you told her that Mr. Schoolcraft did not  
16                  need psychiatric care, she would not be  
17                  telling the truth; is that what you're  
18                  saying?

19                  MR. CALLAN: Objection to the  
20                  form of the question.

21                  A.     You are asking me if Dr.  
22                  Lamstein tells me that he doesn't need  
23                  admission, am I going to change my mind?

24                  Q.     No. If Dr. Lamstein testified  
25                  that you told Dr. Lamstein that Mr.

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2                   Schoolcraft did not need psychiatric  
3                   admission, would she be lying?

4                   MR. CALLAN: Objection to the  
5                   form of the question.

6                   A. This is the first time I'm  
7                   hearing about Dr. Lamstein.

8                   Q. Did you ever hear the name Dr.  
9                   Lamstein before?

10                  A. No, the first time I'm hearing  
11                  about Lamstein.

12                  Q. Did you ever speak to anybody  
13                  from the internal affairs bureau of the  
14                  police department?

15                  A. Excuse me?

16                  Q. Did you ever speak to anybody  
17                  from the internal affairs bureau of the  
18                  police department?

19                  A. No.

20                  Q. Were you the admitting  
21                  physician for Mr. Schoolcraft to the  
22                  psych emergency room?

23                  A. In the emergency room, yes.

24                  Q. Do you know the name of the  
25                  person that brought Mr. Schoolcraft in?

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2                   A.     No, I don't.

3                   Q.     Did you prescribe any  
4     medication for Mr. Schoolcraft?

5                   A.     Risperdal, 0.5 milligrams.

6     That was written by the resident, but I  
7     agreed; Risperdal 0.5 milligrams twice a  
8     day.

9                   Q.     What is that?

10                  A.     That's an antipsychotic.

11                  Q.     Antipsychotic?

12                  A.     Paranoia, psychosis.

13                  Q.     What was the dosage?

14                  A.     It's 0.5.

15                  Q.     What was his weight?

16                  A.     Weight, 109 kilograms.

17                  Q.     And the dosage that you  
18     prescribed, is that an introductory dose?

19                  MR. LEE: Objection to form.

20                  A.     Yes.

21                  Q.     So it's not really therapeutic  
22     at that level, correct?

23                  A.     It's twice a day. It should be  
24     therapeutic.

25                  Q.     When you say "it should be

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2                   therapeutic," what do you mean?

3                   A.     If you are getting 0.5  
4                   milligrams twice a day, 1 milligram, yes.

5                   Q.     How long does it take before it  
6                   becomes effective to become therapeutic?

7                   MR. CALLAN: Objection.

8                   Q.     At the dosage that you  
9                   prescribed at the weight that Mr.  
10                   Schoolcraft was?

11                   MR. CALLAN: Objection.

12                   A.     Most likely a week.

13                   Q.     And when people come in and are  
14                   dangerous, have you prescribed medication  
15                   that they have rejected and refused to  
16                   take? Has that ever happened to you  
17                   where a patient refuses to take medicine  
18                   and you have decided the patient is a  
19                   danger to themselves or others?

20                   A.     Before we start any medication,  
21                   you describe it with the patient which  
22                   you need informed consent and you talk  
23                   about the side effects, the consequences,  
24                   and the benefits of taking or not taking  
25                   medication.

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2                   Q.     Have you ever medicated a  
3     patient against their will because they  
4     were a danger to themselves or others?

5                   A.     They are a danger to  
6     themselves, if they are agitated, they  
7     are violent, yes, I medicated someone  
8     against their will.

9                   Q.     How did you do that?

10                  A.     If they are becoming -- if the  
11     emergency room is being chaotic and the  
12     patient -- first you speak with the  
13     patient and you try to redirect the  
14     patient, try to calm him down. If he  
15     doesn't agree or if he doesn't listen to  
16     your redirection, then you start telling  
17     him that you are going to medicate him.

18                  Q.     And physically, how do you do  
19     that, how do you medicate the person who  
20     resists taking the medicine?

21                  A.     We give them intramuscular.

22                  Q.     Someone will restrain them and  
23     give them a shot, correct?

24                  A.     Yes.

25                  Q.     You did not have the opinion

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2                   that Mr. Schoolcraft needed to go through  
3                   the process of being medicated against  
4                   his will, correct?

5                   A.       At the time in the ER, at that  
6                   point in time when he was in the ER, he  
7                   was not given any intramuscular  
8                   injection.

9                   Q.       Mr. Schoolcraft refused to take  
10                  the medication that you prescribed,  
11                  correct?

12                  A.       Yes.

13                  Q.       And you did not go through this  
14                  process where you went through having him  
15                  restrained and giving him the shot, you  
16                  didn't go through that process with him,  
17                  correct?

18                  A.       No, I didn't.

19                  Q.       Because you didn't deem it  
20                  necessary to do that to Mr. Schoolcraft,  
21                  correct?

22                  A.       At the point he was in the ER,  
23                  he was not agitated so I did not have to  
24                  give him an injection.

25                  Q.       He wasn't such a threat to

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2                   anybody that he was going to need that  
3                   type of restraint and then injection,  
4                   correct?

5                   A.        He was not agitated at the time  
6                   so I didn't have to inject him.

7                   Q.        You indicated that you wanted a  
8                   second opinion earlier, correct?

9                   A.        Yes.

10                  Q.        Did you write a request for a  
11                  second opinion or a consult?

12                  A.        No, I just have to call my  
13                  associate chairman and present to him the  
14                  case, and I spoke with him and he agreed  
15                  with me.

16                  Q.        Who is the doctor that you  
17                  called?

18                  A.        Associate chairman.

19                  Q.        Who is the associate chairman  
20                  that you spoke with?

21                  A.        Dr. Dhar, D-H-A-R.

22                  Q.        Dr. Dhar is a psychiatrist?

23                  A.        Yes.

24                  Q.        Dr. Dhar is his associate  
25                  chairman.   What is that?

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2                   A. Next to the chairman.

3                   Q. Who is the chairman?

4                   A. Dr. Vivek.

5                   Q. Can you spell that?

6                   A. V-I-V-E-K.

7                   Q. When you say you spoke to him,  
8 did you speak to him on the phone or you  
9 don't recall?

10                  A. Call him downstairs and I  
11 presented the case to him.

12                  Q. When you say "you presented the  
13 case to him," did you tell him about the  
14 history that you took?

15                  A. Yes.

16                  Q. Do you remember actually having  
17 this conversation, or is that your  
18 standard practice that you described?

19                  A. When it's a decision, like,  
20 when a decision has to be made wherein --  
21 I would say it's standard practice.

22                  Q. You don't recall actually  
23 having the conversation?

24                  A. I recall that I spoke to him.

25                  Q. You recall in this case

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2 speaking to him?

3                   A. Speaking to him.

4                   Q. What time of day did you speak  
5 to him?

6                   A. That was the afternoon.

7                   Q. And is the associate chairman  
8 the person that you generally call to get  
9 a second opinion for admission under the  
10 Mental Hygiene Law?

11                  A. Yes.

12                  Q. Why do you recall this  
13 particular incident with regard to Mr.  
14 Schoolcraft when you got the second  
15 opinion: Is there anything that brings  
16 it to your mind?

17                  A. I recall that because every  
18 police officer that comes to our  
19 hospital, I try to get second opinion.

20                  Q. When you say "every police  
21 officer," how often have you had police  
22 officers brought to your hospital to the  
23 emergency psych ward?

24                  A. I could not recall how many.

25                  Q. Hundreds?

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2                   A.        No.

3                   Q.        Dozens?

4                   A.        No. That's why it came back in  
5                   memory because it's not 100, but I cannot  
6                   recall how many.

7                   Q.        More than ten?

8                   A.        I don't remember.

9                   Q.        Less than 50?

10                  A.        I would not remember.

11                  Q.        On each of these occasions,  
12                  were they brought in by other members of  
13                  the New York City Police Department?

14                  A.        Yes.

15                  MR. RADOMISLI: What?

16                  THE WITNESS: Yes.

17                  Q.        On each of those occasions, did  
18                  you admit those patients to the psych ER?

19                  A.        To the psych ER, yes.

20                  Q.        On each of those occasions, did  
21                  the associate chairman agree with your  
22                  opinion to admit these police officers  
23                  under the --

24                  MR. CALLAN: Objection to the  
25                  question. I don't know that she said

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2                   she consulted with the associate  
3                   chairman on every case.

4                   MR. SUCKLE: I will clarify.

5                   Q.     For each of those police  
6                   officers that were admitted under the  
7                   Mental Hygiene Law, did you consult with  
8                   a second opinion?

9                   A.     Yes.

10                  Q.     In each of those police  
11                  officers, did the person, the doctor you  
12                  consulted with, agree with your opinion  
13                  to admit under the Mental Hygiene Law?

14                  A.     Yes.

15                  Q.     And these times when police  
16                  officers were admitted under the Mental  
17                  Hygiene Law, did some of them occur  
18                  before Mr. Schoolcraft's admission? I  
19                  mean in the year or months beforehand.

20                  A.     Yes.

21                  Q.     And did the police officers  
22                  come from any particular precinct that  
23                  you were talking about: Did they come  
24                  from the 81st Precinct, if you know?

25                  A.     I would not know that.

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2                   Q.     Do you know, did you get to see  
3     any of the police officers on a recurring  
4     basis that would bring these police  
5     officer in; in other words, the police  
6     officers that would bring the other  
7     police officer in for evaluation, did you  
8     see those police officers more than once?

9                   MR. RADOMISLI: Objection to  
10                  form.

11                  A.     What do you mean more than  
12                  once?

13                  Q.     Like in this case we know that  
14     Sergeant James played some role in Mr.  
15     Schoolcraft's history, correct?

16                  MR. SHAFFER: Objection.

17                  A.     That's in the record.

18                  Q.     Do you know if Sergeant James  
19     was involved in any of the other police  
20     officers who were admitted to Jamaica  
21     Hospital who you admitted under the  
22     Mental Hygiene Law?

23                  A.     I don't know how Mr. James look  
24     like.

25                  Q.     Were there any police officers,

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2                   sergeants, lieutenants who you can  
3                   identify who would bring police officers  
4                   to Jamaica Hospital on a recurring basis?

5                   MR. RADOMISLI: Objection to  
6                   form.

7                   MR. SHAFFER: Objection.

8                   Q.        That you know either by sight  
9                   or name?

10                  A.        No, I wouldn't.

11                  Q.        When the police officers are  
12                  brought in by the other members of the  
13                  New York City Police Department, do you  
14                  always have the same concerns that you  
15                  describe for us about the police officer  
16                  having access to weapons?

17                  MR. CALLAN: Objection to the  
18                  form of the question.

19                  She didn't say they were brought  
20                  in by other members of the New York  
21                  City Police Department.

22                  MR. SUCKLE: We've been told  
23                  that she did.

24                  Q.        Does that concern that you  
25                  expressed about Mr. Schoolcraft and the

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2   access to weapons, did it apply to those  
3   other police officers that you admitted  
4   under the Mental Hygiene Law?

5                   A.    I think you have to look at the  
6   case.  It depends.  Every case is  
7   different.  You have to look at it  
8   differently.

9                   Q.    So some police officers have  
10   access to weapons and some don't?

11                  A.    That I wouldn't know.

12                  Q.    You indicated one of your  
13   concerns for Mr. Schoolcraft's safety was  
14   that he had access to weapons.

15                  A.    In the notes he mentioned why  
16   he cannot have access to his guns.

17                  Q.    So were other police officers  
18   brought in who did have access to weapons  
19   that you are aware of?

20                  A.    I do not remember that.

21                  Q.    Did other police officers ever  
22   bring in another police officer to the  
23   emergency room who you did not admit  
24   under the Mental Hygiene Law?

25                  A.    That would be hard to remember.

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2                   Q.     As you sit here today, you  
3     don't recall any such situations; am I  
4     correct?

5                   MR. RADOMISLI: Objection.

6                   MR. CALLAN: Objection to form.

7                   What situation: admitting or not?

8                   MR. SUCKLE: Not admitting.

9                   Q.     As you sit here today, do you  
10   recall any occurrence of a police officer  
11   being brought in by other police officers  
12   and you did not admit them under mental  
13   hygiene?

14                  MR. RADOMISLI: Objection.

15                  A.     It would be hard to remember.

16                  Q.     So the answer is: As you sit  
17   here, no, you don't remember?

18                  MR. RADOMISLI: Objection to  
19   form.

20                  A.     I do not remember.

21                  Q.     When is the last time you  
22   admitted a police officer under the  
23   Mental Hygiene Law into the psych  
24   emergency room?

25                  A.     Do not remember.

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2                   Q.     Was Mr. Schoolcraft the last  
3     police officer that you admitted under  
4     the Mental Hygiene Law?

5                   A.     I do not know if he was the  
6     last one.

7                   MR. RADOMISLI:   Read that back.

8                   [The requested portion of the  
9     record was read.]

10                  Q.     But none come to memory since  
11    Mr. Schoolcraft, correct?

12                  A.     I'm not sure. I don't  
13    remember.

14                  Q.     And going to your November 3rd  
15    note where you fill out the mental status  
16    exam form, can we turn to that, please.

17                  [Witness complying.]

18                  Q.     Look first at --

19                  A.     Yes.

20                  Q.     -- that's stamped at the top  
21    "Emergency Admission Section 9.39 Mental  
22    Hygiene Law." At the bottom is your  
23    signature?

24                  A.     Yes.

25                  Q.     Is that what we are all talking

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2   about, is that what you have in front of  
3   you?

4                   A.     Yes.

5                   Q.     Is this all of your  
6   handwriting?

7                   A.     Yes.

8                   Q.     And going to the part that  
9   says, "record of admission," what did you  
10  write there?

11                  A.     "Patient is a danger to  
12  himself. Currently psychotic and  
13  paranoid. Would benefit from inpatient  
14  stabilization."

15                  Q.     I'm sorry. I didn't get all of  
16  that?

17                  A.     Would benefit from inpatient  
18  stabilization.

19                  Q.     I didn't hear before will  
20  benefit.

21                   [The requested portion of the  
22  record was read.]

23                  Q.     When you say he would benefit  
24  from it, what do you mean?

25                  A.     Benefit from inpatient

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2     stabilization because when you go up to  
3     the inpatient unit, you will have a  
4     psychiatrist, a therapist, and a team  
5     that will work with you. There are  
6     groups in the inpatient unit and there  
7     are other modalities of the kind of  
8     treatment in the inpatient unit that will  
9     be able to maybe find out why he was  
10    behaving the way he was behaving or why  
11    he was paranoid, and he will be able to  
12    talk to a psychologist or the other  
13    therapist.

14                   Q.     The stabilization, was that a  
15     stabilization of his affect, his  
16     environment that was going to be  
17     stabilized, what did you mean by that?

18                   MR. CALLAN: Objection to form.

19                   A.     Stabilization means  
20     stabilization of his psychosis and  
21     stabilization of if there was any  
22     emotional crisis that was he going on  
23     [sic] or going through with the conflict  
24     that he was having with the supervisors.

25                   Q.     So some type of resolution of

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2                   that conflict would be part of the  
3                   stabilization?

4                   A.        Yes.

5                   Q.        And that would have occurred  
6                   through the modalities that you just  
7                   described earlier?

8                   A.        Yes.

9                   Q.        And would the stabilization  
10                   also include limiting his access to  
11                   weapons?

12                  A.        Stabilization, that will  
13                   include, yes, because they will have to  
14                   find out before he is discharged to  
15                   ascertain he doesn't have any access to  
16                   weapons or....

17                  Q.        Is that stabilization something  
18                   that every police officer admitted under  
19                   the Mental Hygiene Law needs to go  
20                   through: making sure they don't have  
21                   access to weapons?

22                  MR. RADOMISLI: Objection.

23                  MR. CALLAN: I join in the  
24                   objection.

25                  A.        It's not only police officers

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2       but everyone that comes in who are a  
3       danger that we know they have access to  
4       weapons, then we try as much as possible.

5                   I don't know if you know about  
6       the New York SAFE Act wherein we have to  
7       report everyone that has a weapon, we  
8       have to make sure that they are  
9       discharged before....

10          Q.     Usually you have to report  
11       everyone that has a weapon, who do you  
12       have to report that to?

13          A.     The Department of Health.

14          Q.     That's been the law for how  
15       long?

16          A.     Maybe -- that's new, a new law.

17          Q.     Was that in effect in 2009?

18          A.     Not 2009. What I was trying to  
19       say that anyone we know that is a danger  
20       to themselves, we try to make sure they  
21       don't have any access to weapons.

22          Q.     Looking at the date that you  
23       wrote in there -- we have gone through  
24       this. I don't want to spend too much  
25       time on it; but did you actually cross

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2                   out the date of the admission and then  
3                   rewrite it?

4                   A.       I tried to put 11/1/2009.

5                   Q.       Did you check a.m. or p.m. on  
6                   this?

7                   A.       No, I did not check it, but  
8                   23:03 is --

9                   Q.       Military time?

10                  A.       -- military time, yes.

11                  Q.       From the time of your note on  
12                  the 2nd at 3:10 until this note on the  
13                  3rd at 1:20, was Mr. Schoolcraft free to  
14                  leave?

15                  A.       No, he was not.

16                  I made my decision on the day  
17                  that I saw him.

18                  Q.       You made your decision on that  
19                  date and then turn to the Notice of  
20                  Status of Rights in Emergency Admission  
21                  which your counsel clearly decided to  
22                  throw in front of you before --

23                  MR. CALLAN: Are we allowed to  
24                  look at it now because it's in the  
25                  record, Counsel?

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2                   Q.     Did you sign that form?

3                   A.     Yes.

4                   Q.     On the 3rd, correct?

5                   A.     On the 3rd, yes.

6                   Q.     Did you sign that at the same  
7                   time that you signed the Emergency  
8                   Admission Section 9.39 Mental Hygiene  
9                   Law, that form?

10                  A.     Yes.

11                  Q.     What did you do with this form  
12                  once you signed it?

13                  A.     One copy goes to the patient.

14                  Q.     So Mr. Schoolcraft was given  
15                  this on the 3rd of November, 2009?

16                  A.     Yes.

17                  Q.     Did he sign it?

18                  A.     No. I am the one that signs  
19                  it.

20                  Q.     Did Mr. Schoolcraft ask you to  
21                  -- did you have any contact with Mr.  
22                  Schoolcraft's father?

23                  A.     No, I did not.

24                  Q.     Did Mr. Schoolcraft say, call  
25                  my father and tell him about this?

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1                   L. ALDANA-BERNIER

2                   A. No, he did not. I don't know.  
3                   I don't have any notes about him allowing  
4                   me to speak to his father.

5                   Q. Do you know if you spoke to his  
6                   father while he was in the hospital?

7                   A. Regarding the notes if I spoke  
8                   to the father?

9                   Q. Did you write on here that his  
10                  father should be designated as the person  
11                  to be noticed of this admission?

12                  A. No, I didn't write anything  
13                  here.

14                  Q. Why not?

15                  A. Because this belongs to him.

16                  Q. When you say --

17                  A. This is the for the patient.

18                  Q. This is for the patient?

19                  A. Yes.

20                  Q. Do you know why there are these  
21                  lines indicating where copies should go?

22                  A. It says, above patient has been  
23                  given a copy of that notice.

24                  Q. Underneath that, what does it  
25                  say, it has your signature and underneath

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1                   L. ALDANA-BERNIER

2                   that, what does it say? Can you read  
3                   that into the record, please?

4                   A.       "Copies to persons designated by  
5                   patient to be informed of admission."

6                   Q.       Continue. "If," there is a  
7                   parenthesis there.

8                   A.       "If none type in none."

9                   Q.       Did you type in none?

10                  A.       No, I did not.

11                  Q.       Did you write in none?

12                  A.       No, I did not.

13                  Q.       Did you write in anybody's  
14                  name?

15                  A.       It's there, "Schoolcraft,  
16                  Adrian."

17                  Q.       Did you write anybody's name to  
18                  be designated by the patient to be  
19                  informed of his admission, did you write  
20                  any names there?

21                  A.       No, I didn't write any names.

22                  Q.       Do you have a recollection as  
23                  you sit here today independent of the  
24                  record, do you recall actually giving  
25                  this to Mr. Schoolcraft?

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1                   L. ALDANA-BERNIER

2                   A. I do not have an independent  
3                   recollection. The nurse could have given  
4                   it to him.

5                   Q. So the nurse may have given it  
6                   to him?

7                   A. Yes.

8                   Q. Is this something that you  
9                   assigned the nurses to do from time to  
10                   time?

11                  A. Either the nurse or I do. I do  
12                  not have a recollection if I gave it to  
13                  him. I will not know.

14                  Q. Who is the person who write  
15                  none on it for people to designated if  
16                  none is the appropriate answer: you, the  
17                  nurse, something else?

18                  A. I would.

19                  Q. The second page of that  
20                  emergency admission form -- hold on one  
21                  second. Go back to that notice for the  
22                  second.

23                  At the top of the notice there  
24                  appears to be a date. Can you tell me  
25                  the date that you wrote there?

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1                   L. ALDANA-BERNIER

2                   A.        11/1/09.

3                   Q.        What does the form say in that  
4                   box, what is the date of --

5                   A.        "Date of arrival at hospital."

6                   Q.        Did you first write 11/3 and  
7                   then cross it out and make it 1?

8                   A.        No, that's 11/1.

9                   Q.        Did you cross out that middle  
10                   number at all, the date?

11                  A.        No, I put 1.

12                  Q.        So there is no cross out or  
13                  block out of that 1 where the 1 is now?

14                  A.        I put a 1 in there.

15                  Q.        Again, you put the 1 there  
16                  because that's the date that you  
17                  understand him to arrive at the psych ER,  
18                  right?

19                  A.        Yes.

20                  Q.        As opposed to generally him  
21                  arriving at the hospital, yes?

22                  A.        Yes.

23                  Q.        Is that something that you do  
24                  when you fill out these forms when part  
25                  of the form asked for date of arrival,

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2        did you put in the date they arrived at  
3        the psych ER?

4        A.     Yes.

5        Q.     As opposed to the date they  
6        actually arrive at the hospital itself?

7        A.     You're right.

8        Q.     Why do you do that?

9        A.     We usually put the date of the  
10      arrival when they come to the emergency  
11      room.

12      Q.     I understand that.

13                Why don't you put the date of  
14      arrival at the hospital when that's what  
15      the form asked for?

16      A.     We do not use this in the  
17      medical ER.   We use this in the psych ER.

18      Q.     Did you have any hand in  
19      creating this form as director?

20      A.     No.

21      Q.     This existed prior to you --

22      A.     Yes.

23      Q.     -- prior to you being director?

24      A.     Yes.

25      Q.     When did you stop being

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1                   L. ALDANA-BERNIER

2                   director?

3                   A.        Yes.

4                   Q.        When did you stop?

5                   A.        October 2013.

6                   Q.        Was there a reason that you  
7                   stopped being director?

8                   A.        There was a change of  
9                   administration.

10                  Q.        Has there been changes of  
11                  administration at any time in the ten  
12                  years that you were director?

13                  A.        No.

14                  Q.        Looking at the second page of  
15                  the emergency admission form, is any of  
16                  this your handwriting?

17                  A.        That belong to Dr. Isakov.

18                  Q.        Did Dr. Vivek make any notes in  
19                  the chart as to the associate chairman  
20                  that you spoke to?

21                  MR. CALLAN: Vivek is the  
22                  chairman.

23                  Q.        I thought you said associate  
24                  chairman.

25                  A.        Associate chairman is Dr. Dhar

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1                   L. ALDANA-BERNIER

2 and chairman and Dr. Vivek.

3 Q. You spoke to Dr. Dhar?

4 A. Yes.

5 Q. Did Dr. Dhar fill out any of  
6 these forms with regard to the mental  
7 hygiene admission?

8 A. No.

9 Q. So you just got a verbal on the  
10 phone by Dr. Dhar; is that what you're  
11 saying?

12 MR. RADOMISLI: Objection.

13 Q. Of your opinion?

14 MR. CALLAN: Objection to the  
15 form of the question.

16 Q. Did you speak to Dr. Dhar on  
17 the telephone?

18 A. He came down.

19 Q. He came down to the emergency  
20 room?

21 A. [Indicating.]

22 Q. When Dr. Dhar came down to the  
23 emergency room, you presented the case to  
24 him, correct?

25 A. Yes.

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1                   L. ALDANA-BERNIER

2                   Q.     And then what happened?

3                   A.     And he agreed to my decision of  
4 admitting the patient.

5                   Q.     Did he become the second  
6 physician under Mental Hygiene Law for  
7 admission?

8                   A.     You only the need one in an  
9 emergency admission.

10                  Q.     But it needs to be confirmed  
11 eventually, correct?

12                  A.     That is after 48 hours.

13                  Q.     So you called him down just  
14 because you wanted a second opinion, not  
15 to confirm for the purposes of 48-hour  
16 requirement, correct?

17                  A.     To discuss this case, yes.

18                  Q.     Was there something you were  
19 unsure of, is that why you wanted Dr.  
20 Dhar's opinion or something else?

21                  MR. CALLAN: You went through  
22 this whole thing. Asked and answered,  
23 objection.

24                  MR. SUCKLE: Then her answer  
25 should be the same.

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1                   L. ALDANA-BERNIER

2                   A.        I give you the same answer.

3                   Q.        What is the same answer?

4                   A.        I made the decision and I asked  
5 for Dr. Dhar's opinion and Dr. Dhar  
6 agreed.

7                   Q.        Was there anything about Mr.  
8 Schoolcraft's presentation to you that  
9 made you unsure of your opinion?

10                  MR. RADOMISLI: Objection to  
11 form; unsure.

12                  A.        Once more I have to reiterate:  
13 I was not only looking at that day when I  
14 saw him, I was looking at the whole  
15 picture; the whole picture from the time  
16 that he came in to the time that I made  
17 the decision that he needs to be  
18 admitted.

19                  Q.        Was there anything about that  
20 whole picture as you say and the opinion  
21 you formed as a result of that whole  
22 picture of which you were unsure; that is  
23 the question?

24                  A.        That I was not, no. I made a  
25 decision so I had to admit him.

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1                   L. ALDANA-BERNIER

2                   Q.     And the second form, did you  
3     review this at any time while Mr.  
4     Schoolcraft was in the hospital or were  
5     you done with Mr. Schoolcraft's care and  
6     treatment after that?

7                   A.     I did not review that. I do  
8     not go to the inpatient. I was not in  
9     the inpatient.

10                  Q.     So this form was completed in  
11    part by you in the emergency room, and  
12    the rest was completed for the inpatient  
13    by the second confirming physician?

14                  A.     Yes.

15                  MR. SUCKLE: Mark this as  
16    Plaintiff's Exhibit 70.

17                  [The document was hereby marked  
18    as Plaintiff's Exhibit 70 for  
19    identification, as of this date.]

20                  Q.     I show you what's been marked  
21    Exhibit 70 for today's date and ask you  
22    what that is?

23                  MR. RADOMISLI: Do you have one  
24    at least?

25                  MR. SUCKLE: You produced it.

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1                   L. ALDANA-BERNIER

2                   MR. CALLAN: What you are  
3                   showing is Emergency Admission Status.

4                   Q.     Do you know what that is?

5                   MR. CALLAN: Do you have a copy  
6                   machine?

7                   MR. SMITH: I do.

8                   MR. CALLAN: Before the end of  
9                   day?

10                  MR. SMITH: For sure.

11                  MR. CALLAN: It's only three  
12                  pages.

13                  MR. SMITH: Everybody take a  
14                  break. I'll make copies right now.

15                  It's 4:34. We are taking a  
16                  break.

17                  [Discussion held off the  
18                  record.]

19                  [Whereupon, at 4:34 p.m., a  
20                  recess was taken.]

21                  [Whereupon, at 4:49 p.m., the  
22                  testimony continued.]

23                  [The documents were hereby  
24                  marked as Plaintiff's Exhibits 71  
25                  through 75 for identification, as of

1                   L. ALDANA-BERNIER

2                   this date.]

3                   Q. Doctor, you have in front of  
4                   you Exhibit 70 I believe.

5                   A. Yeah.

6                   Q. Do you know what that is?

7                   A. Yes.

8                   Q. What is it?

9                   A. It's a policy on Emergency  
10                   Admission Status.

11                   Q. Did you have any hand in  
12                   creating this document?

13                   A. I do not remember. I just  
14                   probably would see it, but I don't  
15                   remember crafting it or making all of  
16                   those policies.

17                   Q. I realize it's long and I know  
18                   you're tired, I appreciate that, but you  
19                   have to keep your voice up if you can.

20                   When you were the director of  
21                   the emergency room, did you have a  
22                   supervisor that you answered to?

23                   A. Yes.

24                   Q. Who was that?

25                   A. Dr. Dhar and Dr. Vivek.

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1                   L. ALDANA-BERNIER

2                   Q.     So the chairman and the  
3                   associate chairman?

4                   A.     Yes.

5                   Q.     Did they have a hand in  
6                   creating this form?

7                   A.     Yes.

8                   Q.     So who else was involved in the  
9                   creation of this form? You said you sat  
10                  in maybe?

11                  A.     Yes. It's all the  
12                  administrative leaders of the department:  
13                  the unit chief, Dr. Dhar, Dr. Vivek, and  
14                  the director of the nursing department.

15                  Q.     Have you ever from time to time  
16                  had to reference this document for your  
17                  own information?

18                  MR. RADOMISLI: Objection to  
19                  form.

20                  A.     You mean go back and read?

21                  Q.     Yes, that's another way of  
22                  asking it.

23                  A.     I see it every now and then if  
24                  we have administrative meetings, we have  
25                  to see it once again so I more or less

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1                   L. ALDANA-BERNIER

2                   will listen to what is being changed or  
3                   being added.

4                   MR. CALLAN: Keep your voice up,  
5                   Doctor, louder.

6                   Q.        Doctor, I know that the last  
7                   review was April of 2010. Was anything  
8                   changed then?

9                   A.        I would not remember.

10                  Q.        It appears that the policy was  
11                  reviewed every April from 1999 through  
12                  2010. What does the review entail, do  
13                  you know?

14                  A.        Going back to all of this if  
15                  there is anything added that the  
16                  Department of Health would like to add.

17                  Q.        What is on here, what is the  
18                  information on here, how would you  
19                  characterize that?

20                  A.        Well, it's giving us all the  
21                  reasons about when we admit the patient.  
22                  It's the 9.39.

23                  Q.        Do you know the vernacular,  
24                  CPEP, do you know what a CPEP is?

25                  A.        Community --

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1                   L. ALDANA-BERNIER

2                   Q.     Community psyche emergency  
3                   protocol?

4                   A.     Where are you?

5                   Q.     It's not on here.

6                   Do you know that vernacular, do  
7                   you know what that stands for, CPEP?

8                   MR. RADOMISLI: Did you say what  
9                   you thought it stood for on the  
10                  record? I don't think you got it  
11                  right.

12                  Q.     Do you know what CPEP stands  
13                  for?

14                  A.     Referring to CPEP?

15                  Q.     What is that?

16                  A.     That is the holding a patient  
17                  in that department instead of sending the  
18                  patient to admission.

19                  Q.     Holding them in that --

20                  A.     It's a different department of  
21                  ER wherein you can hold a patient before  
22                  you could admit the patient to the  
23                  inpatient.

24                  Q.     That's the psych ER, the  
25                  medical ER, or both?

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2                   A.       The psych ER.

3                   Q.       And that wasn't done with Mr.  
4                   Schoolcraft, correct?

5                   A.       Because we did not have a CPEP  
6                   then.

7                   Q.       What does that stand for?

8                   A.       Community psychiatry emergency  
9                   -- I do not have the whole name, sorry.

10                  Q.       But Jamaica Hospital has one  
11                  now?

12                  A.       It has one, yes.

13                  Q.       When looking at Exhibit 70, is  
14                  it your understanding this sets out what  
15                  is required under 9.39 of the mental  
16                  health law to admit someone under the  
17                  mental health law?

18                  MR. CALLAN: Objection to form.

19                  MR. LEE: Objection to the form.

20                  A.       I want you to rephrase that  
21                  one.

22                  Q.       Sure.

23                  What is the standard set out in  
24                  this document, if you know?

25                  MR. CALLAN: Do you want her to

1                   L. ALDANA-BERNIER

2                   read the document, a summary?

3                   MR. SUCKLE: I want to know her  
4                   understanding of it.

5                   MR. CALLAN: I object. It's a  
6                   three-page piece of paper. It speaks  
7                   for itself.

8                   Objection to the form of the  
9                   question.

10                  Q. Do you know what this is?

11                  A. Yes, it's a New York Mental  
12                  Hygiene Law, that's careful attention  
13                  with preservation of their legal rights  
14                  as well as their safety.

15                  Q. Is this the policy of Jamaica  
16                  Hospital?

17                  A. To do a 9.39?

18                  Q. Is this document a policy of  
19                  Jamaica Hospital?

20                  A. It's showing in here Jamaica  
21                  Hospital Department of Psychiatry Manual.

22                  Q. Is it a policy of Jamaica  
23                  Hospital, a written policy?

24                  A. A written policy, yes.

25                  Q. Do you endeavor to follow the

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2                   policies of Jamaica Hospital, the written  
3                   ones?

4                   A.       The written, yes.

5                   Q.       In dealing with Mr.  
6                   Schoolcraft, did you endeavor to follow  
7                   the policy set forth here as Exhibit 70?

8                   MR. CALLAN: Well, this says it  
9                   was revised 4/10.

10                  MR. SUCKLE: I asked her if she  
11                  knew what --

12                  MR. CALLAN: Well, we don't  
13                  know.

14                  MR. SUCKLE: It doesn't say  
15                  revised. It says reviewed. Please  
16                  don't speak. I asked her about --

17                  MR. CALLAN: Are you making a  
18                  representation this was the policy  
19                  that was in effect at the time that  
20                  Mr. Schoolcraft were seen?

21                  MR. SUCKLE: I'm asking if she  
22                  followed this policy, endeavored to  
23                  follow this policy, whether it was in  
24                  effect or not she can tell me.

25                  MR. LEE: Objection to form.

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2                   A.     It's saying in here, "Patient  
3     alleged to have a mental illness for  
4     which immediate observation, care, and  
5     treatment in a hospital is appropriate  
6     and which is likely to result in serious  
7     harm to himself or others may be admitted  
8     under this provision for a period of 15  
9     days."

10                  Q.     The question is: Did you  
11     endeavor to follow this policy in your  
12     care and treatment of Mr. Schoolcraft?

13                  A.     At that point in 2009, I  
14     thought -- I believe that he may be a  
15     danger to others or to himself because of  
16     that point in time if you go back to the  
17     story where he was brought to the  
18     hospital because he was acting bizarre  
19     and agitated and he was paranoid. I  
20     think he was a danger to others or to  
21     himself.

22                  Q.     Is your answer, yes, you tried  
23     to --

24                  A.     That's what I'm saying, yes.

25                  Q.     Under this policy, under number

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1                   L. ALDANA-BERNIER

2    1 is "a substantial risk of physical harm  
3    to himself as manifested by threats of or  
4    attempts at suicide."

5                   Did he manifest threats or  
6    attempts at suicide?

7                   MR. SHAFFER: Objection.

8                   MR. CALLAN: Objection.

9                   Q.     Did Mr. Schoolcraft manifest  
10    threats or attempts at suicide?

11                  A.     You have to finish.

12                  Q.     We are going to break it down.  
13    We are going to go one by one?

14                  MR. CALLAN: Objection.

15                  MR. SUCKLE: That's the  
16    question.

17                  MR. CALLAN: Objection to the  
18    form of the question.

19                  MR. SUCKLE: Noted. She can  
20    answer.

21                  MR. CALLAN: The doctor said you  
22    left something out. You are reading  
23    incomplete sentences from a three-page  
24    document.

25                  MR. SUCKLE: I'm asking

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2                   questions. In my horrific stumbling  
3                   way, I'm asking a question.

4                   Q. Doctor, did you admit Mr.  
5                   Schoolcraft because he was a substantial  
6                   risk of physical harm to himself as  
7                   manifested by a threat or attempt at  
8                   suicide?

9                   A. Sir --

10                  Q. Just yes or no.

11                  A. Sir, you have to complete the  
12                  statement.

13                  Q. I don't have to do anything.  
14                  You have to answer questions.

15                  MR. SHAFFER: Objection.

16                  A. "Or other conduct demonstrating  
17                  he is a danger to himself."

18                  Q. We're going to get there. I  
19                  know that part. I'm asking you a  
20                  question.

21                  A. That's what I based --

22                  Q. We are going to get to what you  
23                  based your opinion on. I'm asking you:  
24                  Did you base it on that he was a  
25                  substantial risk of physical harm to

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1                   L. ALDANA-BERNIER

2                   himself as manifested by a threat of or  
3                   attempt at suicide?

4                   MR. CALLAN: Objection, asked  
5                   and answered.

6                   MR. SUCKLE: Not answered yet.

7                   Q.        Yes or no?

8                   MR. CALLAN: Objection, asked  
9                   and answered.

10                  Q.        Can you answer, please?

11                  A.        A potential risk, yes.

12                  Q.        So you say he manifest by a  
13                  threat or attempt at suicide; it that  
14                  what you're saying?

15                  A.        A potential risk.

16                  Q.        Did he manifest by a threat of  
17                  suicide?

18                  A.        It's the behavior that he came  
19                  in with to the emergency room. I saw he  
20                  was a potential risk that he might hurt  
21                  himself or hurt others. That's a  
22                  potential risk.

23                  Q.        So potential risk was the  
24                  reason that you held him, correct?

25                  A.        That's the reason that I was

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1                   L. ALDANA-BERNIER

2                   thinking that he needs admission.

3                   Q.     And the potential of that risk  
4                   you've described to us already today?

5                   A.     I did, yes.

6                   Q.     And this potential of a risk,  
7                   did the doctor who saw him within the  
8                   48-hour period to confirm his admission  
9                   also tell you that he was concerned about  
10                  the potential risk?

11                  MR. RADOMISLI: Objection.

12                  MR. LEE: Objection to the form.

13                  MR. CALLAN: I join in the  
14                  objection.

15                  Q.     Did he tell you he was  
16                  concerned about the potential risk that  
17                  you've just described?

18                  MR. LEE: There's been no  
19                  testimony she ever talked to him.

20                  MR. SUCKLE: She can say that if  
21                  that's the answer.

22                  A.     If you read the notes, I wasn't  
23                  there for him to tell me that. As I read  
24                  his notes, I can see he was a potential  
25                  risk.

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1                   L. ALDANA-BERNIER

2                   Q. This potential risk that you're  
3 talking about, did he have this potential  
4 risk when you last saw him?

5                   A. I'm not basing it only to one  
6 day. I'm basing it from the beginning  
7 that he came into the hospital.

8                   Q. And this potential risk, is  
9 there any other risk besides that  
10 potential risk that you just described as  
11 the reason that you held him?

12                  A. What risk are you thinking of?

13                  Q. I'm not thinking of any.

14                  MR. CALLAN: Do you want her to  
15 repeat herself again?

16                  MR. SUCKLE: No, I want to make  
17 sure there are no other ones.

18                  Q. Is that potential risk that you  
19 just described the only reason that you  
20 held him?

21                  A. The same reason I think when I  
22 see a patient, it is a potential risk and  
23 danger to others, and I make the decision  
24 I have to admit the patient.

25                  Q. And when you say "potential

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2   risk," can you quantify that for me at  
3   all what you mean by potential?

4                   A.   The patient comes in barricaded  
5   himself, acting bizarre. He was brought  
6   in from his house. It was a police  
7   officer who may have access to weapons,  
8   easy for him to have access to weapons.  
9   He is paranoid. I would think that maybe  
10   it would be safe if the patient will be  
11   admitted.

12                  Q.   So your thought he might be  
13   safe if he was admitted?

14                  A.   If he was admitted.

15                  Q.   That's what you were talking  
16   about when you say potential risk,  
17   correct?

18                  A.   All of the above that I told  
19   you.

20                  Q.   Can you quantify what you mean  
21   by potential risk as far as the  
22   likelihood of risk? This word  
23   "potential" that you have been using, can  
24   you quantify that for me?

25                  A.   When you say "quantify," what

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2                   do you mean?

3                   Q.        Sure.

4                   Well, you used the word  
5                   "potential." I would like to know what  
6                   you mean by potential.

7                   A.        If you think of the navy yard  
8                   disaster, was he an officer or army man?  
9                   He was so quite, no one ever found out  
10                  what was going on with him. So what  
11                  happened then?

12                  Or if you look at all of those  
13                  -- the Range Rover. Who are all of these  
14                  people that caused that? They are all  
15                  police officers.

16                  So if I think then I have to  
17                  make sure that when I see a patient in  
18                  the ER, I have to think in the future  
19                  that there will be no disaster, there  
20                  will be no destruction, or no one will  
21                  get harmed when they were discharged from  
22                  the ER.

23                  Q.        I was asking about what you  
24                  meant by potential.

25                  A.        That's the potential.

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1                   L. ALDANA-BERNIER

2                   Q.     So if there is any potential at  
3     all, you want to make sure that the  
4     patient is safe, correct?

5                   A.     Correct.

6                   Q.     And if there is any potential  
7     at all, you want to make sure the  
8     community is safe, correct?

9                   A.     That's correct.

10                  Q.     And if there is any potential  
11    at all, you were going to admit Mr.  
12    Schoolcraft, correct?

13                  MR. LEE: Objection to form.

14                  A.     With all of those reasons, yes,  
15    I would have to admit him.

16                  Q.     When you admitted him to the  
17    emergency room, there were certain rules  
18    and regulations --

19                  MR. SUCKLE: Withdrawn.

20                  Q.     When he was admitted to the  
21    psych floor, there were certain rules and  
22    regulations in the psych ward, correct,  
23    about clothes they wear, what hours  
24    visitors can come, correct?

25                  A.     Yes.

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1                   L. ALDANA-BERNIER

2                   Q.     It's not like they are free to  
3                   have anybody come and visit any time they  
4                   want, correct; is that true?

5                   A.     That's correct.

6                   Q.     I will show you what's been  
7                   marked as Exhibit 71.

8                   Now, do you know what that is?

9                   A.     [No response.]

10                  Q.     Do you know what that is?

11                  A.     It's the policy of visiting  
12                  hours.

13                  Q.     Were those the policies in  
14                  effect when Mr. Schoolcraft was on the  
15                  psychiatric floor at Jamaica Hospital in  
16                  2009?

17                  A.     Okay, this policy is for the  
18                  inpatient unit.

19                  Q.     During the time that Mr.  
20                  Schoolcraft was at Jamaica Hospital, was  
21                  he in the inpatient unit?

22                  A.     I did not work in the inpatient  
23                  unit.

24                  Q.     I understand.

25                  Was he in the inpatient unit?

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2                   A.        Yeah, he was in the inpatient  
3                   unit.

4                   Q.        Were these documents created by  
5                   Jamaica Hospital, the visiting hours, do  
6                   you know about that?

7                   A.        It's in here [indicating].

8                   Q.        Were you sitting in on the  
9                   committee that created that document too?

10                  A.        I don't remember that.

11                  Q.        Do you agree that Mr.  
12                  Schoolcraft could have visitors from 2  
13                  p.m. and 3 p.m. and 6:30 p.m. to 8 p.m.  
14                  only?

15                  MR. RADOMISLI: Objection.

16                  MR. CALLAN: Objection.

17                  Q.        While he was on the floor, do  
18                  you agree with that?

19                  MR. CALLAN: You know, Counsel,  
20                  she said she is not involved with the  
21                  inpatient.

22                  Maybe you can ask her about  
23                  painting the hospital. Maybe she  
24                  might know something about that.

25                  Maybe she looked at it from her car

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2                   when she drove by.

3                   MR. SUCKLE: I'll ask her about  
4                   it next.

5                   MR. SHAFFER: I will be leaving  
6                   if that is a question that's asked.

7                   A.        Can you ask the question again?

8                   Q.        What were the visiting hours on  
9                   the floor?

10                  A.        Two to three, 6:30 to eight.

11                  Q.        So Mr. Schoolcraft if his  
12                  father wanted to visit him at nine  
13                  o'clock in the morning, would not be able  
14                  to do that, correct?

15                  MR. CALLAN: Objection.

16                  MR. RADOMISLI: Objection.

17                  MR. LEE:    Objection to form.

18                  A.        I would not know what the  
19                  policy at the inpatient unit would be.

20                  MR. SUCKLE: Counsel wants me to  
21                  ask about painting, but I'm not going  
22                  to do that.

23                  MR. CALLAN: That's a relief.

24                  Q.        Let's look at Exhibit 72.

25                  MR. SMITH: Which is --

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2                   Q.     Which is the restriction of  
3     visiting and communication and  
4     correspondence, do you know about that,  
5     what that document is?

6                   A.     This is also for the inpatient  
7     unit.

8                   Q.     So you don't know anything  
9     about it?

10                  A.     I can read it to you.

11                  Q.     Do you know anything about it?

12                  A.     No, it's for the inpatient  
13     unit.

14                  Q.     So you only know about the  
15     emergency room?

16                  A.     Emergency room.

17                  MR. CALLAN: Aren't you doing  
18     Isakov tomorrow? Isn't he in the  
19     inpatient room?

20                  Q.     I'm showing you what's been  
21     marked Exhibit 74 today's date. Do you  
22     know what this is?

23                  A.     It's the rules and regulations  
24     the patients have to comply with.

25                  Q.     At Jamaica Hospital in the

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1                   L. ALDANA-BERNIER

2 psych unit?

3                   A. Psych Unit 3, yes.

4                   Q. What is Psych Unit 3?

5                   A. That's -- it's a unit which  
6 patients are admitted; one is 2 and one  
7 is 3.

8                   Q. What is the distinction, if  
9 any, in treatment?

10                  A. None, it's the same.

11                  Q. Was Mr. Schoolcraft admitted to  
12 Psych 3?

13                  A. Yes.

14                  Q. So these rules would apply to  
15 him?

16                  A. Psych 3.

17                  MR. RADOMISLI: Mr. Suckle, is  
18 this something we produced to you?

19                  MR. SUCKLE: I believe so. I  
20 don't know.

21                  MR. RADOMISLI: Do you know?

22                  MR. SUCKLE: Off the top of my  
23 head, I don't remember but -- I don't  
24 remember.

25                  MR. RADOMISLI: Would there be a

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2                   way for you to get it in a fashion  
3                   other than if we produced it?

4                   MR. SUCKLE: I didn't do  
5                   discovery in this case so you've got  
6                   the wrong guy.

7                   MR. RADOMISLI: Do you know  
8                   whether this was produced to you by  
9                   us?

10                  MR. SUCKLE: Off the top of my  
11                  head, I would assume it was. In fact,  
12                  I know it came out of, I hit print on  
13                  your document response to discovery  
14                  inspection and this came out. I can  
15                  tell you that.

16                  MR. RADOMISLI: Fair enough.  
17                  Thank you.

18                  MR. CALLAN: Or it could be  
19                  another hospital in Queens, who knows.

20                  Q.        This document was created by  
21                  Jamaica Hospital, correct?

22                  MR. CALLAN: Objection.

23                  A.        Correct.

24                  Q.        She already said yes.

25                  MR. CALLAN: Do you know if that

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1                   L. ALDANA-BERNIER

2                   was created by Jamaica Hospital, do  
3                   you have personal knowledge of that?

4                   THE WITNESS: It says Unit 3  
5                   so....

6                   MR. CALLAN: I'm not asking you  
7                   what it says.

8                   Do you have personal knowledge  
9                   as to whether that document was  
10                  created by Jamaica Hospital?

11                  If you do, you can say yes, if  
12                  no, say no. Don't assume is all I'm  
13                  saying to you.

14                  Do you know?

15                  MR. SUCKLE: Stop badgering your  
16                  own witness.

17                  THE WITNESS: I was just looking  
18                  at the top of it.

19                  Q.           Do you recognize this document?

20                  A.           Which one?

21                  Q.           This one, have you seen it  
22                  before?

23                  A.           I have to -- I don't think so  
24                  because it's inpatient unit.

25                  MR. SMITH: You don't think so?

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1                   L. ALDANA-BERNIER

2                   THE WITNESS: It's in the  
3                   inpatient unit. I work in the ER.

4                   Q.        You work in the ER; am I  
5                   correct?

6                   A.        Yes.

7                   Q.        You have been doing this for  
8                   how many years, how long have you been  
9                   working in the ER?

10                  A.        Eighteen years.

11                  Q.        For 18 years people come into  
12                  the psychiatric ER, right, you evaluate  
13                  them, correct?

14                  A.        Yes.

15                  Q.        And you sign them in under  
16                  Mental Hygiene Law, they go upstairs,  
17                  correct?

18                  A.        Yes.

19                  Q.        And you never see them again;  
20                  is that true?

21                  MR. CALLAN: Objection.

22                  Q.        While they were at the  
23                  hospital?

24                  MR. CALLAN: Does that have to  
25                  do with the piece of paper?

1                   L. ALDANA-BERNIER

2                   MR. SUCKLE: I'm asking  
3                   questions about the paper because you  
4                   didn't like the paper.

5                   Q. Is that true? When they go  
6                   upstairs on the psychiatric ward, you  
7                   don't see them again, correct?

8                   A. That depends if you follow the  
9                   patient on the outside, then you see them  
10                  again.

11                  Q. When you say "follow the  
12                  patient on the outside," do you follow  
13                  patients on the outside?

14                  A. If they refer them to me, yes.

15                  Q. Who is they?

16                  A. The inpatient Unit 3.

17                  Q. So inpatient can refer a  
18                  patient to you for private care?

19                  A. Yes.

20                  Q. Do you do your own private  
21                  practice?

22                  A. Yes.

23                  Q. Do you have an office outside  
24                  of Jamaica Hospital?

25                  A. I do.

1                   L. ALDANA-BERNIER

2                   Q.     In this private practice, you  
3 practice psychiatry I assume, correct?

4                   A.     What else would I practice?

5                   Q.     I don't know. I'm just making  
6 sure.

7                   How many days a week do you  
8 work in that private practice?

9                   A.     One.

10                  Q.     How many days a week did you  
11 work at Jamaica Hospital in 2009?

12                  A.     Five.

13                  Q.     And you also had private  
14 practice back in 2009?

15                  A.     That's -- yes, one, one day.

16                  Q.     So just to be clear: You were  
17 working six days a week back in 2009,  
18 correct, five at Jamaica, one on your  
19 own?

20                  A.     I work with somebody.

21                  Q.     So you are working six days a  
22 week, five at Jamaica Hospital and one in  
23 private practice in 2009?

24                  A.     Five days a week after I come  
25 -- after five o'clock on Friday.

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2                   Q.     So five o'clock on Fridays you  
3     see private patients in your own  
4     practice; is that what you're saying?

5                   A.     Yes.

6                   Q.     How many hours do you usually  
7     do that?

8                   A.     Four hours.

9                   Q.     Could you get referrals from  
10   time to time from patients up on the  
11   psych 3 unit?

12                  A.     Yes.

13                  Q.     Who refers them to you: the  
14   physicians up there, the nurses, anybody  
15   else?

16                  A.     Social worker.

17                  Q.     Social workers?

18                  A.     Yes.

19                  MR. CALLAN: Counsel, does this  
20   have anything remotely to do with Mr.  
21   Schoolcraft?

22                  MR. SUCKLE: I don't know yet.

23                  MR. CALLAN: Has he told you he  
24   was seeing Dr. Aldana-Bernier in her  
25   office?

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1                   L. ALDANA-BERNIER

2                   MR. SUCKLE: Are you saying her  
3                   resumé is not part of my questions?

4                   MR. CALLAN: I'm just asking.  
5                   You have been going for hours here and  
6                   now we have gone down this road to  
7                   nowhere. I would kind of like to get  
8                   it back.

9                   This all has to do with you  
10                  handing her a piece of paper if they  
11                  can smoke in the inpatient unit or not  
12                  which I will be willing to stipulate  
13                  by the way that no smoking is allowed.

14                  I think it is Rule No. 1  
15                  assuming that's Psych Unit 3 is  
16                  Jamaica Hospital.

17                  MR. SUCKLE: Are you enjoying  
18                  extending our stay here?

19                  Q.        So did you see Mr. Schoolcraft  
20                  in your private practice?

21                  A.        No.

22                  Q.        Did you see police officers in  
23                  your private practice?

24                  A.        No.

25                  Q.        Did a Captain Lauterborn tell

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1                   L. ALDANA-BERNIER

2        you that from his observation of Mr.

3        Schoolcraft as he observed Mr.

4        Schoolcraft on October 31st, 2009, that

5        Mr. Schoolcraft was fit for duty?

6                   MR. SHAFFER: Objection.

7                   Q.       Did he tell you that?

8                   A.       I did not meet him.

9                   Q.       So am I correct that you got  
10       the history of Mr. Schoolcraft  
11       barricading him [sic] from some police  
12       officers, but you didn't get the  
13       histories from other police officers like  
14       Captain Lauterborn; am I correct?

15                  MR. CALLAN: Objection to form.

16                  MR. LEE: Objection to form.

17                  MR. RADOMISLI: Objection to  
18        form.

19                  A.       I don't know the officer. I  
20       haven't met him.

21                  Q.       Well, it was Mr. Schoolcraft's  
22       captain. Are you aware that Captain  
23       Lauterborn was his captain?

24                  MR. SHAFFER: Objection.

25                  A.       No.

1                   L. ALDANA-BERNIER

2                   Q.     So you were not aware when you  
3     signed the form on November 3rd, to admit  
4     Mr. Schoolcraft to the hospital that his  
5     captain said that he was fit for duty?

6                   MR. CALLAN: Objection.

7                   MR. SHAFFER: Objection.

8                   MR. RADOMISLI: Objection.

9                   Q.     You did not know that?

10                  MR. SHAFFER: Objection.

11                  A.     No, I didn't know that.

12                  Q.     Would you like to have known  
13     that information, would it have helped  
14     you in your assessment of Mr.  
15     Schoolcraft?

16                  MR. SHAFFER: Objection.

17                  MR. CALLAN: I join in the  
18     objection.

19                  Q.     Would you have liked to know,  
20     would that have helped you in your  
21     assessment of Mr. Schoolcraft?

22                  MR. CALLAN: If it's true.

23                  A.     I didn't even know when he came  
24     to the hospital, I didn't see any  
25     officer. I don't remember if I seen an

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1                   L. ALDANA-BERNIER

2                   officer at the time when I saw Mr.  
3                   Schoolcraft.

4                   MR. CALLAN: Doctor, he didn't  
5                   say he came to the hospital. I know  
6                   it's getting late in the day. He is  
7                   asking you to make an assumption about  
8                   something. He asking you a question.  
9                   He didn't say this person came to the  
10                   hospital so just listen carefully to  
11                   the question.

12                   Go ahead, Counsel.

13                   MR. SUCKLE: Read that back.

14                   [The requested portion of the  
15                   record was read.]

16                   Q.        My question is: Would you have  
17                   liked to know, would it have helped you  
18                   in your assessment of Mr. Schoolcraft  
19                   that his captain said he was fit for duty  
20                   on October 31st, 2009?

21                   MR. KRETZ: Objection.

22                   MR. CALLAN: On October 31st?

23                   MR. SUCKLE: Yes.

24                   MR. CALLAN: Objection.

25                   A.        Yes, I would.

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2                   Q.     Would that have changed your  
3     opinion regarding whether or not Mr.  
4     Schoolcraft needed to be admitted to the  
5     hospital if you had known that Captain  
6     Lauterborn had said that Mr. Schoolcraft  
7     was fit for duty on October 31st, 2009?

8                   MR. RADOMISLI:   Can you just  
9     define when he said that?

10                  MR. SUCKLE:   On that day,  
11     October 31st, 2009.

12                  MR. RADOMISLI:   Before Mr.  
13     Schoolcraft left?

14                  MR. SUCKLE:   I just want to ask  
15     the question.   You can narrow it down  
16     anyway you want when your turn comes.

17                  Let's have a question and an  
18     answer.

19                  MR. RADOMISLI:   I would like a  
20     time frame.

21                  MR. SUCKLE:   I know what you  
22     want.   I asked a question.

23                  MR. RADOMISLI:   Objection to  
24     form.

25                  MR. SHAFFER:   I join in the

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2                   objection.

3                   Q.     Would you have changed your  
4     opinion had you known on October 31st,  
5     2009, at 21:30 hours, Captain Lauterborn  
6     said that Mr. Schoolcraft was fit for  
7     duty, would that have changed your  
8     opinion?

9                   MR. KRETZ: Objection.

10                  MR. CALLAN: Objection.

11                  MR. SHAFFER: Objection.

12                  Q.     Would you have admitted him is  
13    the question?

14                  A.     Yes, I would have admitted him.

15                  Q.     How would it have changed your  
16    opinion. You said it would change your  
17    opinion?

18                  MR. CALLAN: You asked if she  
19    would have liked to have known.

20                  MR. SUCKLE: I did ask her.

21                  Q.     Would it change your opinion if  
22    you knew that Captain Lauterborn on  
23    October 31st, 2009, at 21:30 hours,  
24    deemed Mr. Schoolcraft fit for duty?

25                  A.     It would not change my opinion.

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2     I would talk to maybe the captain, and I  
3     will tell him what is going on, and I  
4     will make a decision together again with  
5     the chairman if he should be admitted or  
6     discharged.

7     Q.    And you would talk to the  
8     captain because you want to verify that  
9     information, correct?

10                  MR. KRETZ: Objection.

11                  MR. CALLAN: Same objection.

12     Q.    Is that why you would have  
13    talked to the captain?

14                  MR. CALLAN: Verify what  
15     information, what information,  
16     Counsel?

17                  MR. SUCKLE: She said she would  
18    talk to the captain.

19     Q.    Why would you have talked to  
20    the captain?

21     A.    To verify that he said he was  
22    fit for duty.

23     Q.    Did you speak to any officers  
24    to verify that he had barricaded himself  
25    in his house?

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2                   MR. SHAFFER: Objection.

3                   A.     I get it from the information  
4     in the report.

5                   Q.     Did you speak to any police  
6     officer to verify he was acting bizarre?

7                   MR. SHAFFER: Objection.

8                   MR. CALLAN: Asked and answered.

9                   Q.     Did you speak to any officers?

10                  A.     It's been reported and written  
11     down in the document.

12                  MR. KRETZ: Read that back.

13                  [The requested portion of the  
14     record was read.]

15                  Q.     Seroquel, do you know what that  
16     is?

17                  A.     Yes.

18                  Q.     What is it?

19                  A.     A second generation  
20     antipsychotic.

21                  Q.     Is that also used for sleep  
22     disorders?

23                  A.     Sleep, depression, bipolar,  
24     used for psychosis.

25                  MR. SMITH: We are going to take

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2                   a short break to see what we have  
3                   left.

4                   It's 5:24. We are going off the  
5                   record.

6                   MR. CALLAN: All right.

7                   [Discussion held off the  
8                   record.]

9                   [Whereupon, at 5:24 p.m., a  
10                  recess was taken.]

11                  [Whereupon, at 5:38 p.m., the  
12                  testimony continued.]

13                  MR. SMITH: Back on the record.

14                  It is 5:38 p.m.

15                  MR. RADOMISLI: Just before you  
16                  start asking questions, I sent an  
17                  email to my associate at the office  
18                  asking him to do a search in our  
19                  system to determine if we ever  
20                  provided with you document Psych 3  
21                  Unit Rules, according to his search,  
22                  there is nothing on our system  
23                  indicating we ever did.

24                  I ask you send us by within a  
25                  week an explanation how you obtained

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2                   this document. I'm not saying we  
3                   didn't give it to you, all I'm saying  
4                   is according to my associate based on  
5                   his search, there is no indication we  
6                   did.

7                   MR. SUCKLE: I will double-check  
8                   my records, but I'm fairly confident  
9                   that it came from you.

10                  MR. CALLAN: It didn't come from  
11                  me. I can tell you that.

12                  MR. SUCKLE: Maybe the house  
13                  painter gave it.

14                  Q.     Doctor, I know it's late. We  
15                  are getting there.

16                  Doctor, in your position as  
17                  employee of the hospital, do you get a  
18                  performance evaluation, do you get  
19                  evaluated in your performance?

20                  A.     Yes.

21                  Q.     Is that something done  
22                  annually, some other way?

23                  A.     Annually.

24                  Q.     Are they written evaluations?

25                  A.     Are they written, yes.

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2                   Q. And in their evaluations,  
3 without discussing at this point what the  
4 evaluations were, can you tell me what  
5 some of items are that are considered in  
6 your evaluation?

7                   A. I don't have a copy so it's  
8 hard for me to say. We talk about  
9 performance. We talk about ability to  
10 relate with other staff. We talk about  
11 clinical judgment. We talk about if we  
12 have this sense of cooperativeness with  
13 the department. We also talk about our  
14 knowledge of medicine or psychiatry.  
15 That's all I can remember.

16                  Q. In your evaluation has any of  
17 your evaluations criticized your clinical  
18 judgment?

19                  MR. RADOMISLI: Objection based  
20 on the --

21                  MR. CALLAN: Yeah, objection.

22                  MR. RADOMISLI: -- and based on  
23 Education Law 6527.

24                  MR. CALLAN: I join in the  
25 objection, and you're directed not to

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2                   answer that question.

3                   Q.        When you talk about  
4                   performance, is there any relationship  
5                   between performance and the number of  
6                   patients seen in your evaluation?

7                   MR. CALLAN: Objection to the  
8                   question.

9                   MR. SUCKLE: Just generally not  
10                   only her.

11                   Q.        Generally, is part of your  
12                   performance evaluation based on the  
13                   number of patients seen?

14                   MR. RADOMISLI: Objection based  
15                   on privilege, but I can't direct her  
16                   not to answer.

17                   MR. SUCKLE: I don't think  
18                   that's privileged. She just gave me  
19                   generally categories of evaluations.

20                   MR. RADOMISLI: You're asking  
21                   her?

22                   MR. SUCKLE: I'm asking  
23                   generally.

24                   MR. LEE: Objection.

25                   Q.        Generally, in the category of

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2    performance, does that include number of  
3    patients seen?

4                   A.     No.

5                   Q.     Do you know how many patients  
6    you saw last year at Jamaica Hospital?

7                   A.     I would not remember that.

8                   Q.     Is there a way that you can  
9    ascertain that kind of information?

10                  A.     I have to go to the financial  
11    department and see how many patients I  
12    have seen. I don't know.

13                  Q.     That would be the same for  
14    patients that you saw in 2009?

15                  MR. CALLAN: You mean did she  
16    see the exact number of patients?

17                  Q.     In order to find out how many  
18    you saw, you would have to go to the  
19    financial department?

20                  A.     Financial department because  
21    they have to do the billing. I don't  
22    bill.

23                  Q.     So in order to find out how  
24    many patients you saw if you wanted, you  
25    would have to go to the billing or

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2 financial department, correct?

3                   MR. CALLAN: Do you know if they  
4                   can isolate it by doctor name or are  
5                   you assuming?

6                   THE WITNESS: I do not know how.

7                   MR. CALLAN: Just tell him that.

8                   MR. SMITH: Let her speak.  
9                   Don't interrupt. Let her answer the  
10                  question for God's sake.

11                  MR. CALLAN: Do you know for a  
12                  fact if they have the software or  
13                  computer program to isolate it by  
14                  doctor per patient, do you know that?

15                  THE WITNESS: No, I don't.

16                  Q. Doctor, does Jamaica Hospital  
17                  have a billing department?

18                  A. They do.

19                  Q. When you see a patient, are you  
20                  required to fill out any paperwork so  
21                  that the patient's insurance company will  
22                  be billed if there is an insurance  
23                  company?

24                  A. I'm not the one that do the  
25                  billing.

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2                   Q.     Do you fill out any forms or  
3     documents that go to billing so they can  
4     bill the patient for your services?

5                   A.     Yes, I fill out a form.

6                   Q.     What is the nature of that  
7     form, what is it?

8                   A.     It's a form that I sign that I  
9     saw the patient.

10                  Q.     Do patients who come in with  
11    private insurance, do they get admitted,  
12    do you need approval from time to time  
13    from private insurance before they get  
14    admitted; just generally we're talking  
15    about?

16                  A.     Let me see.

17                  Q.     I'm talking generally.

18                  A.     Yes.

19                  Q.     Not Mr. Schoolcraft.

20                  A.     Yes.

21                  Q.     What about for Medicare, do  
22    they need approval before a patient is  
23    admitted?

24                  A.     That depends if it's an HMO.

25                  Q.     So some HMOs require approval

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2 and some aren't HMOs.

3                   And does the federal government  
4 require prior approval on their Medicare?

5                   A.     If they are not HMOs, you don't  
6 to ask for authorization.

7                   Q.     How about Medicaid, is prior  
8 approval required before admission?

9                   A.     No.

10                  Q.     Just as a housekeeping thing:  
11 Are you paid for your overtime hours?

12                  A.     No.

13                  Q.     You have actually in front of  
14 you, you know at some point IAB, internal  
15 affairs from the New York City Police  
16 Department did come to the hospital based  
17 on the records in front of you, correct?

18                  MR. CALLAN: Is that a question,  
19 does she know that?

20                  MR. SUCKLE: Yes.

21                  Q.     Based on the record in front of  
22 you?

23                  A.     Yes, I know there is a note.

24                  Q.     What is the date of that note?

25                  A.     That's 11/2/2009, five o'clock

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2                   in the afternoon.

3                   Q.     So that note was in the chart  
4                   before you signed your November 3rd,  
5                   mental hygiene admission form, correct?

6                   A.     That's correct.

7                   Q.     So you know that internal  
8                   affairs had come to the hospital before  
9                   you decided to admit Mr. Schoolcraft to  
10                  the hospital?

11                  MR. CALLAN: Objection. She  
12                  testified earlier she made the  
13                  decision to admit him on the 2nd not  
14                  on the 3rd. She filled out the form  
15                  on the 3rd. You're mischaracterizing  
16                  testimony.

17                  Q.     Before you filled out the form  
18                  to admit Mr. Schoolcraft under the Mental  
19                  Hygiene Law, you knew that IAB had come  
20                  to the hospital, correct?

21                  MR. SHAFFER: Objection.

22                  A.     The notes are here from 11/2.

23                  Q.     So the answer is yes, you knew  
24                  that IAB had come to the hospital before  
25                  you signed the admission forms on 11/3,

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2                   correct?

3                   A.        I must have read the notes.

4                   MR. SMITH:   What was the answer?

5                   THE WITNESS:   I must have read  
6                   the note.

7                   Q.        Did you speak to the officer  
8                   from IAB and ask them whether or not Mr.  
9                   Schoolcraft had told them the story about  
10                   the problem with his supervisor that Mr.  
11                   Schoolcraft told to you?

12                   MR. SHAFFER:   Objection.

13                   A.        It was at five o'clock.   I was  
14                   not there.   It was at 9:30.   I'm not  
15                   there anymore [indicating].

16                   Q.        In fact one of the officers  
17                   from IAB stapled -- gave his card and it  
18                   was taped to the chart, correct?

19                   MR. CALLAN:   She said she wasn't  
20                   there when they were there.

21                   Q.        The chart you have in front of  
22                   you, correct?

23                   A.        Yes.

24                   Q.        Yes.   And when you went to sign  
25                   your admission under the Mental Hygiene

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2                   Law on November 3rd, that card was in the  
3                   chart, correct?

4                   MR. CALLAN: How do we know when  
5                   the card was stapled in?

6                   MR. SUCKLE: Let her answer. If  
7                   she doesn't know, she'll tell me.

8                   MR. CALLAN: You're making these  
9                   things up in your question.

10                  MR. SUCKLE: I'm making up  
11                  nothing. I'm --

12                  MR. CALLAN: You are. You said  
13                  the IAB officer stapled the card into  
14                  the card.

15                  MR. SUCKLE: I didn't say that.

16                  MR. CALLAN: Who stabled that  
17                  in?

18                  MR. SUCKLE: Nobody, it's taped.

19                  Q.            Can we have an answer to the  
20                  question, please?

21                  A.            I don't remember. I do not  
22                  remember seeing this card.

23                  Q.            If that card was in the chart,  
24                  would you have called that officer from  
25                  internal affairs to verify Mr.

1                   L. ALDANA-BERNIER

2                   Schoolcraft's story?

3                   MR. CALLAN: Objection.

4                   MR. SHAFFER: Objection.

5                   MR. SMITH: What was the answer?

6                   THE REPORTER: I didn't get an  
7                   answer yet.

8                   Q.        What's your answer.

9                   A.        I wouldn't know because I don't  
10                   know if I saw the card or not.

11                  Q.        Had you seen the card before  
12                   you signed the mental hygiene admission  
13                   on the 3rd, would you have called  
14                   internal affairs?

15                  A.        I did not see these cards  
16                   before so I don't know if I would have  
17                   called internal affairs.

18                  Q.        So now you are saying you know  
19                   you did not see the cards?

20                  A.        I do not know if I saw these  
21                   cards. I don't remember seeing them.

22                  Q.        And you don't remember if you  
23                   would have called internal affairs?

24                  A.        I didn't see the card.

25                  Q.        You know you did not see the

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2                   cards?

3                   A.        I do not know. I do not  
4                   remember. It was that 2009.

5                   Q.        So the answer is, am I correct,  
6                   you don't know if you saw the cards and  
7                   you don't know what you would have done  
8                   if you did see the cards, am I correct,  
9                   is that the answer?

10                  MR. CALLAN: Objection.

11                  Q.        You can answer.

12                  A.        I do not know if I would have  
13                  called them.

14                  Q.        Looking at the note of November  
15                  2nd, 2009, at 9:30, do you see that note?

16                  A.        P.m.?

17                  Q.        Yes.

18                  Do you see that note?

19                  A.        Yes.

20                  Q.        And that is before your  
21                  November 3rd, 1:20 note where you signed  
22                  the form, the mental hygiene admission,  
23                  correct?

24                  A.        Yes.

25                  Q.        And did you read the chart

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2       where it says, "Patient has been seen and  
3       interviewed by Detective Steven P. Wacter  
4       [phonetic] and Sergeant Scott from  
5       Internal Affairs Bureau"?

6                   A.     Yes.

7                   Q.     Would you want to know what  
8       internal affairs had to see about Mr.  
9       Schoolcraft in coming to your opinion  
10      regarding whether or not he needed to be  
11      admitted to the hospital?

12                  MR. SHAFFER: Objection.

13                  A.     I was wondering why the  
14       attending put this note and did not write  
15       any note about what interaction happened  
16       with internal affairs.

17                  Q.     When you say you were wondering  
18       about it --

19                  A.     There's nothing.

20                  Q.     When were you wondering about  
21       it?

22                  A.     Now.

23                  Q.     Why were you wondering about  
24       it?

25                  A.     Should have written a note.

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2                   Q.     When you say "should have  
3     written a note," what should he have  
4     written about?

5                   A.     His interaction with internal  
6     affairs.

7                   Q.     Would that have been helpful to  
8     you in your care and treatment with Mr.  
9     Schoolcraft?

10                  A.     In deciding to admit him or  
11     not?

12                  Q.     Yes.

13                  A.     I already made my decision  
14     before that. On 11/1 I made the decision  
15     of admission.

16                  Q.     Was your decision irreversible  
17     once you made it?

18                  A.     I think that he would benefit  
19     from inpatient admission.

20                  Q.     When you say "he would  
21     benefit," what do you mean?

22                  A.     I thought at the time in 2009  
23     that he would be a danger to himself or  
24     others.

25                  Q.     The question was: Would the

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2   notes that you think would have been  
3   helpful in coming to your decision as to  
4   whether or not Mr. Schoolcraft needed to  
5   be admitted?

6                   MR. RADOMISLI: Objection to  
7   form.

8                   MR. CALLAN: How would she know?

9                   MR. SUCKLE: She was the one  
10   that said something should have been  
11   there.

12                  MR. CALLAN: You are the one  
13   talking about cards stapled into a  
14   chart.

15                  MR. SUCKLE: The record is what  
16   the record is. You are just playing  
17   games now.

18                  MR. CALLAN: It's nonsense.

19                  MR. SUCKLE: It's nonsense?

20                  MR. CALLAN: Right.

21                  MR. SUCKLE: A doctor has a note  
22   in front of her and she signs a day  
23   later, you think it's nonsense.

24                  MR. CALLAN: It is.

25                  MR. SUCKLE: Let's go.

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2                   MR. CALLAN: She's got one note  
3                   in the chart, it's only taken us six  
4                   hours to question her so....

5                   MR. SUCKLE: Maybe we should  
6                   have taken six hours to evaluate the  
7                   patient.

8                   Q.       The notes you said should have  
9                   been there, would that have been helpful  
10                  to you in your decision to admit Mr.  
11                  Schoolcraft?

12                  MR. SHAFFER: Objection to form.

13                  MR. CALLAN: Objection to form.

14                  MR. SUCKLE: It hasn't been  
15                  answered.

16                  MR. RADOMISLI: It has actually.

17                  MR. CALLAN: Asked and answered,  
18                  Counsel.

19                  There is nothing in the note  
20                  except that IAB was there.

21                  MR. SUCKLE: The note she said  
22                  should have been there.

23                  MR. CALLAN: She is supposed to  
24                  make up a note now and answer a  
25                  hypothetical?

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2                   MR. SUCKLE: She said a note  
3                   should be there. I'm asking about the  
4                   note that should have been there.

5                   A. Not my note.

6                   Q. I understand.

7                   The note that should have been  
8                   there, would they have mattered in your  
9                   decision to admit Mr. Schoolcraft?

10                  MR. SHAFFER: Objection to form.

11                  MR. RADOMISLI: Objection to  
12                  form, asked and answered.

13                  MR. SUCKLE: I didn't get an  
14                  answer. I've asked it.

15                  MR. SHAFFER: It's impossible to  
16                  answer the question. The information  
17                  doesn't exist. It's impossible to  
18                  answer.

19                  Let's stop playing games and  
20                  move this along. You cannot answer a  
21                  question about something that does not  
22                  exist.

23                  Q. Please answer the question?

24                  MR. CALLAN: Can you answer the  
25                  question, Doctor?

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2                   A.     I already made my decision. I  
3     cannot answer the question.

4                   Q.     Once you made your decision?

5                   A.     The patient needed admission.  
6     I felt that at that point on 11/1 that  
7     the patient needed inpatient  
8     stabilization.

9                   Q.     So just so we are clear here:  
10    No information from IAB would have  
11    changed your mind, correct, from internal  
12    affairs?

13                  MR. KRETZ: Objection.

14                  MR. CALLAN: Same objection.

15                  A.     Then I would have to make the  
16     chairman make the decision.

17                  Q.     So if IAB had information, you  
18     would want the chairman to make the  
19     decision?

20                  MR. CALLAN: Objection. This is  
21     ridiculous.

22                  MR. SMITH: Would you stop.

23                  Would you please stop. I'm sick and  
24     tired of you interrupting this  
25     examination. You've been doing this

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2                   all day.

3                   MR. CALLAN: Are you involved in  
4                   this?

5                   MR. SMITH: Yes, heavily and  
6                   you're going to become more involved  
7                   in this with this kind of  
8                   irresponsible behavior.

9                   MR. CALLAN: There is one  
10                  attorney designated to represent the  
11                  Plaintiff. It's not you today. You  
12                  are just running the home movie  
13                  camera.

14                  MR. SMITH: Would you please  
15                  stop interfering?

16                  MR. SUCKLE: Excuse me. No  
17                  matter how much you pontificate, we  
18                  are not going home until we are done.

19                  I'm going to keep asking until I  
20                  get an answer. I'm going to keep  
21                  asking.

22                  MR. CALLAN: Try to ask a  
23                  relevant question.

24                  MR. SUCKLE: I haven't been able  
25                  to all day, that's why we're here.

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2                   I'm trying.

3                   MR. CALLAN: Work harder at it.

4                   MR. SUCKLE: Maybe you'll teach  
5                   me one day.

6                   A.        What do the think internal  
7                   affairs would tell me?

8                   MR. CALLAN: Doctor, you have to  
9                   wait for the question.

10                  Q.        There was nothing internal  
11                  affairs could have told you to change  
12                  your mind, you already made your decision  
13                  and whatever internal affairs had to say,  
14                  you were not going to change your mind,  
15                  correct?

16                  A.        Is internal affairs reliable?

17                  Q.        That's a good question. Can  
18                  you answer my question?

19                  A.        So I have to determine how  
20                  reliable internal affairs is.

21                  Q.        How do you determine whether or  
22                  not internal affairs is reliable?

23                  A.        Because I have to assess them  
24                  too.

25                  Q.        In assessing them, how would

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2        you do that?

3                   A. Collaborate what I have seen  
4        and what they tell me.

5                   Q. So you would need to hear what  
6        internal affairs has to say and evaluate  
7        whether or not you can believe them or  
8        not, correct?

9                   A. Yes.

10                  Q. Did you evaluate the police  
11       officer who reported that Mr. Schoolcraft  
12       had barricaded himself in his house, did  
13       you evaluate that person?

14                  MR. SHAFFER: Objection.

15                  A. He wasn't there. I didn't see  
16       him.

17                  Q. So but you accepted his  
18       information as part of the basis of your  
19       diagnosis, correct?

20                  A. And the documentation.

21                  Q. Documentation somebody else  
22       wrote in a chart, correct?

23                  A. That I saw Mr. Schoolcraft and  
24       I agreed to whatever the documentation of  
25       the resident was.

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2                   Q.     When you saw Mr. Schoolcraft,  
3     you agreed he had barricaded himself in  
4     his house?

5                   A.     That is the information given.

6                   Q.     Written in the chart?

7                   A.     Information given in the chart.

8                   Q.     By some police officer or  
9     sergeant from the police department,  
10    correct?

11                  A.     Hold on. Also have the  
12    documentation from the EMS.

13                  Q.     Did you speak to EMS?

14                  A.     Documentation is here.

15                  Q.     Documentation meaning a note?

16                  A.     Yes.

17                  Q.     So EMS writes a note and you  
18    accept what they say because it's written  
19    in the chart, correct?

20                  A.     They were there. They went to  
21    pick up the patient.

22                  Q.     But you are not sure if you  
23    would trust internal affairs; am I  
24    correct?

25                  A.     That's a big question.

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2                   Q.     Do you have the duty as a  
3     physician in accordance with good and  
4     accepted medical practice to conduct your  
5     own evaluation of a patient?

6                   A.     I do.

7                   Q.     Do you as a physician have in  
8     accordance with good and accepted medical  
9     practice have to do a complete evaluation  
10    of your patients?

11                  A.     I agree with the evaluation of  
12    the resident. I saw the patient. I  
13    agree whatever evaluation of resident was  
14    and that's it. I have written in my  
15    notes --

16                  Q.     I understand.

17                  My question is not quite that.

18                  Do you have a duty, does good  
19    and accepted medical practice require you  
20    to do a complete evaluation of your  
21    patients; that's the question?

22                  A.     I'm in agreement with the  
23    resident.

24                  Q.     Yes or no, do you have a duty  
25    within the bounds of good and accepted

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2                   medical practice to do a complete  
3                   evaluation of your patient?

4                   MR. CALLAN: Objection to form.

5                   MR. LEE: Objection.

6                   Q.     Does good and accepted medical  
7                   practice require you to do a complete  
8                   evaluation of your patient?

9                   A.     I did evaluation. I'm in  
10                  agreement with the resident.

11                  MR. CALLAN: Objection.

12                  Q.     You can't answer that question?

13                  A.     I consider that in agreement  
14                  with my resident.

15                  Q.     I'm not talking about conduct  
16                  here. I'm talking about a standard of  
17                  practice. The standard of practice is  
18                  what we are talking about now.

19                  The question is: Does good and  
20                  accepted medical practice require you to  
21                  do a complete evaluation; that's the  
22                  question?

23                  MR. KRETZ: Objection.

24                  A.     I mention to you I did an  
25                  evaluation and I agree with whatever

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2                   evaluation of the resident.

3                   Q.     I understand what you think you  
4                   did in Mr. Schoolcraft's situation.

5                   I'm asking as a standard as a  
6                   physician what the standards are.

7                   My question is: Does good and  
8                   accepted medical practice require you to  
9                   do a complete evaluation of all of your  
10                  patients?

11                  A.     Okay. If you are saying in  
12                  general if we agree with the evaluation  
13                  of the residents, we usually say I agree  
14                  with the above evaluation of the patient.

15                  Yes, we evaluate the patient.  
16                  If we agree with the assessment whatever  
17                  the residents say, that's what we  
18                  document.

19                  Q.     Do you not understand my  
20                  question?

21                  A.     I understand your question.

22                  Q.     But you are just refusing to  
23                  answer?

24                  MR. CALLAN: Next question.

25                  Move on.

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2                   Q. Doctor, does good and accepted  
3                   medical practice require you to do an  
4                   independent evaluation of your patient?

5                   MR. CALLAN: We have been down  
6                   that road, Counsel. She did an  
7                   independent. She read --

8                   MR. SUCKLE: I'm asking about  
9                   standard in the field. Maybe I  
10                  learned it, somewhere I must have  
11                  stumbled in somewhere about the  
12                  standard so I'm going to ask. I might  
13                  be right.

14                  Q. Doctor, does good and accepted  
15                  medical practice require you to do an  
16                  independent evaluation of all of your  
17                  patients?

18                  A. I already answered you. I said  
19                  I assessed the patient. And if the  
20                  resident assessed also the patient, I  
21                  will say that I agree with the assessment  
22                  of the patient.

23                  Q. Do you know what good and  
24                  accepted medical practice means?

25                  A. I said I did assess the

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2                   patient.

3                   Q.     Do you know what medical  
4                   standards are, standards of practice, do  
5                   you understand that?

6                   A.     But you --

7                   Q.     I'm talking about general  
8                   standards of practice. Do you  
9                   understand?

10                  A.     Yes, I'm saying --

11                  Q.     I'm not talking about what you  
12                  did with Mr. Schoolcraft.

13                  A.     I'm not referring only to Mr.  
14                  Schoolcraft.

15                  Q.     The question is: Do you have,  
16                  a simple yes or no, does good and  
17                  accepted medical practice require you to  
18                  do your own independent evaluation of an  
19                  a patient?

20                  MR. CALLAN: Objection to the  
21                  form.

22                  Q.     If it's no you can tell me no.

23                  MR. CALLAN: What do you mean,  
24                  your own independent evaluation as  
25                  opposed to speaking to a resident, as

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2                   opposed to calling people?

3                   MR. SUCKLE: Yes.

4                   MR. CALLAN: Then ask it that  
5                   way.

6                   MR. SUCKLE: It's pretty clear.

7                   MR. CALLAN: They way you're  
8                   asking it is totally unclear.

9                   MR. SUCKLE: It's one of those  
10                  things I have to learn from you again.  
11                  Thanks for teaching me.

12                 Q.     Can you please answer my  
13                 question, Doctor? We are going to be  
14                 here all night if you don't answer these  
15                 few questions.

16                 MR. CALLAN: I can assure we are  
17                 not going to be here all night. We're  
18                 getting very close to you being  
19                 abusive.

20                 Q.     I'm entitled to be here. We  
21                 will bring you back to answer this last  
22                 few series of questions which go to  
23                 standard of care.

24                 MR. CALLAN: Sure you will.

25                 MR. SUCKLE: I absolutely will

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2                   bring her back if she can't answer  
3                   standard of care questions. I will.  
4                   You might want to ask her to answer  
5                   the questions. I will bring her back  
6                   if she doesn't answer standard of care  
7                   questions.

8                   MR. RADOMISLI: Off the record.

9                   MR. SMITH: Off the record at  
10                   6:05 p.m.

11                   [Discussion held off the  
12                   record.]

13                   [Whereupon, at 6:05 p.m., a  
14                   recess was taken.]

15                   [Whereupon, at 6:06 p.m., the  
16                   testimony continued.]

17                   [Discussion held off the  
18                   record.]

19                   MR. SMITH: Back on the record  
20                   at 6:06.

21                   Q. Doctor, I'm not talking about  
22                   what you documented or didn't document.  
23                   I'm just talking about standard of care  
24                   as a physician.

25                   The question is: Does good and

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2   accepted medical practice require you to  
3   do your own independent evaluation  
4   regardless of how you document that  
5   evaluation?

6                   MR. CALLAN: Objection to the  
7   form of the question.

8                   You can answer.

9                   A.    When a resident sees the  
10   patient, after the resident sees the  
11   patient, I do go see the patient. If I  
12   can agree with the documentation, then I  
13   write I agree with the documentation.

14                  Q.    I understand your procedure.  
15   Thank for telling me your procedure.

16                  Does good and accepted medical  
17   practice require you, forget what you do,  
18   does it require you to do your own  
19   independent evaluation? That's a simple,  
20   straightforward question, not about what  
21   other people do, about what you do.

22                  A.    I have to see every patient,  
23   yes.

24                  MR. SMITH: What was the answer.  
25                  [The requested portion of the

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2                   record was read.]

3                   Q.        And make your own independent  
4                   evaluation, correct?

5                   A.        Yes.

6                   MR. SHAFFER: Is that a yes?

7                   MR. CALLAN: It's a yes.

8                   Q.        Doctor, have you ever been  
9                   involved in any other lawsuits besides  
10                   this one?

11                  A.        Yes.

12                  Q.        The answer was yes?

13                  A.        Yes.

14                  Q.        When you say yes, how many?

15                  A.        Two that I know of.

16                  Q.        When you say that you know of,  
17                  why do you answer that way?

18                  A.        That's what I know.

19                  Q.        Do you keep open there is a  
20                  possibility that there are lawsuits that  
21                  you don't know about?

22                  A.        That's what I know. You are  
23                  asking me.

24                  Q.        Do you know the names of those  
25                  people that are suing you?

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